

Thursday, September 1, 2005

The Board met at its offices at 450 N Street, Sacramento, at 9:33 a.m., with Mr. Chiang, Chair, Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

George and Judy Georgiou, 254030

1989, \$51,738.00 Tax, \$2,586.90 Negligence Penalty

1990, \$185,554.00 Tax, \$37,110.80 Negligence Penalty

For Appellant:

Russell B. Longaway, Representative

George Georgiou, Taxpayer

For Franchise Tax Board:

Shane Hofeling, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellants have shown that the proposed assessments, based upon federal adjustments, are erroneous.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

SALES AND USE TAX APPEALS HEARINGS

Jeffrey V. Miller, 253699 (OH)

1-1-02 to 9-30-02, \$75,818.00 Tax

For Petitioner:

Jeffrey Miller, Taxpayer

Joseph B. Pierce, Attorney

For Sales and Use Tax Department:

Trecia Nienow, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner is personally responsible for the unpaid tax liability of Western for the period January 1, 2002 through September 30, 2002.

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

System Control Technologies, Inc., 240329 (CH)

7-1-01 to 9-30-02, \$131,695.70 Tax, \$14,065.30 Failure to Timely Pay Penalty

For Petitioner:

Daniel Alexander, Attorney

Gerald Henderson, Representative

For Sales and Use Tax Department:

Carla Caruso, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner is liable as a successor within the meaning of Revenue and Taxation Code section 6812.

Whether relief from the penalty for failure to timely pay the tax is warranted.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

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Jungle Partners I, LP, 243608, 304879 (GHC, BH)

7-1-99 to 9-30-02, \$31,384.09 Tax

7-1-99 to 9-30-02, \$31,384.09 Claim for Refund

Jungle Partners II, LP, 243607, 304878 (CH)

7-1-99 to 9-30-02, \$82,378.20 Tax

7-1-99 to 9-30-02, \$82,378.20 Claim for Refund

Jungle Partners III, LP, 243603, 304871 (GH)

7-1-99 to 9-30-02, \$89,831.17 Tax

7-1-99 to 9-30-02, \$89,831.17 Claim for Refund

For Petitioner:

Dave DiMaggio, Attorney

John Hess, Taxpayer

For Sales and Use Tax Department:

Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioners may retain excess tax reimbursement they collected from their customers, rather than refunding the excess to their customers or paying it to the Board, because petitioners received erroneous advice from the Sales and Use Tax Department in a prior audit.

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

SPECIAL TAXES APPEALS HEARING

Japan Tobacco International U.S.A., Inc., 253848, 287748 (ET)

1-1-01 to 12-31-01, \$530,688.00 Fee

1-1-01 to 12-31-01, \$125,265.94 Claim for Refund

For Petitioner:

Mark Stone, Attorney

Thomas Hirshfield, Taxpayer

For Property and Special Taxes Department:

Monica Brisbane, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether subdivision (a) of the Business and Professions Code section 22979.2 is ambiguous.

Whether subdivision (a) of the Business and Professions Code section 11979.2 violates the United States or California Constitutions.

Action: Mr. Leonard moved that the petition be granted. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

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LEGAL APPEALS MATTERS, CONSENT

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Thanhtram Thi Pham, 169954 (GH)

1-1-98 to 6-30-01, \$83,269.94 Tax, \$8,327.03 Negligence Penalty

Action: Deny the petition for rehearing as recommended by the Appeals Division.

Bob Haywood's Unfinished Furniture, Inc., 173374 (FH)

1-1-98 to 12-31-00, \$20,666.00 Tax, \$2,972.38 Failure to Timely Pay Penalty

Action: Redetermine as recommended by the Appeals Division.

Everett E. and Anna Marie Fikse, 252249 (UT)

3-15-01, \$7,938.00 Tax

Action: Redetermine as recommended by the Appeals Division.

Watsonville Print Ink, Inc., 206048 (GHC)

7-1-97 to 3-31-98, \$5,086.62 Tax, \$9,469.46 Penalty

Action: Redetermine as recommended by the Appeals Division.

Arun C. and Pankaj B. Patel, 309913 (EA)

December 21, 2004 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

Nader Mahmoud Jamil, 311440 (EH)

February 8, 2005 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

Niceforo Herrera Bustos and Olga Gonzalez DeHerrera, 309425 (FH)

February 8, 2005 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

Farid Eid Farraj, 309272 (EH)

March 2, 2005 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigars.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Richard Lee Collins and Andrea Gallippi, 281560; Philip and Carmella Glezer, 259538; Ronald E. McKeown, 290245; Michael G. McKinney, 290004; and, Scott R. and Judith E. Martin, 253561.*

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With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Hector Aillion, 265134

1998, \$1.00 or more Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Hassib Aridi, 267577

1989, \$417.05 Assessment

Action: Sustain the action of the Franchise Tax Board.

Harimohan S. Bawa, 271465

2000, \$1,480.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Garcelle Beauvais, 294390

1988, \$15,109.07 Assessment

1989, \$27,326.31 Assessment

1990, \$2,564.62 Assessment

Action: Sustain the action of the Franchise Tax Board.

Douglas L. and Patricia A. Black, 268563

1999, \$5,204.00 Assessment

2000, \$5,956.00 Assessment

2001, \$6,135.00 Assessment

2002, \$6,498.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

James F. and Johnnie B. Blanding, 286727

2001, \$10,553.00 Assessment

Action: Modify the action of the Franchise Tax Board.

Cynthia BorkowskiCain, 288683

1991, \$1,575.52 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Kenneth James Braunbach, 218726

1999, \$1,922.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Richard E. Campbell, 300519

2002, \$1,347.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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P. Michael and Sybil P. Carney, 271463

1999, \$12,388.00 Assessment

2000, \$10,890.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Richard Lee Collins and Andrea Gallippi, 281560

2000, \$1,553.00 Tax, \$100.00 Late Filing Penalty

Action: The Board took no action.

Charles David Costa, 289986

1996, \$1,296.28 Assessment

Action: Sustain the action of the Franchise Tax Board.

Steven M. Crow, 288549

2002, \$1,084.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

James Robert Dugan, 254543

Christy Robicheaux-Olsson, 266737

1992, \$34,248.80 Assessment

Action: Modify the action of the Franchise Tax Board.

Endre Farkas, 287673

2001, \$393.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

A. Fabian Garces, 270324

1989, \$11,243.73 Claim for Refund

1992, \$8,255.90 Claim for Refund

1994, \$7,434.40 Claim for Refund

1995, \$2,599.00 Claim for Refund

1996, \$5,650.86 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Philip and Carmella Glezer, 259538

1990, \$1,876.84 Assessment

Action: The Board took no action.

George Graham, 282118

2001, \$385.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Lee Hart, 287725

2001, \$2,195.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Jung-Ching and Judith Ho, 266344

2000, \$1,446.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Bruce D. Johnson, Jr., 240972

2000, \$15,545.42 Assessment

Action: Sustain the action of the Franchise Tax Board.

Leslie P. Liddie, 297432

1991, \$66.46 Late Payment Penalty, \$88.00 Collection Fee, \$43.12 Interest

Action: Dismiss for lack of jurisdiction as to the late payment penalty and collection fee; in addition, sustain the action of the Franchise Tax Board as to the determination to only partially abate interest.

M & B Asset Management Trust, 270603

1998, \$44,189.00 Assessment

1999, \$21,468.00 Assessment

2000, \$15,541.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ronald E. McKeown, 290245

2000, \$3,245.00 Assessment

Action: The Board took no action.

Michael G. McKinney, 290004

2001, \$1,217.00 Assessment

Action: The Board took no action.

Gary Mofield, 294788

2000, \$344.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Patricia Mosby, 270217

1999, \$4,386.00 Assessment

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

Albert and Emily Nelson, 283276

2002, \$8,421.25 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

John Richard Peacock, 272256

2001, \$1,673.00 Tax, \$418.25 Demand Penalty, \$418.25 Failure to File Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

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Richard L. Reese, Jr., 294247

1999, \$997.72 Claim for Refund

Action: Sustain the action with concession by the Franchise Tax Board.

Michelle Roybal, 294764

2001, \$648.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Korey D. (Deceased) and Kelci Stringer, 289915

2000, \$1,366.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Henry Tillman, 257682

Susan D. Sader, 272962

1980, \$4,299.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Kathleen Todd, 294755

2002, \$801.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Thompson K. Vodrey, 258566

1997, \$58,280.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

William Woodman, 287078

2000, \$694.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ronald Brekke, 224269

1999, \$1,013.00 Tax, \$253.25 Late Filing Penalty

Action: Deny the petition for rehearing.

Jerry Couchman, 224276

2000, \$1,982.00 Tax, \$955.00 Delinquent Return and Failure to File Penalties

Action: Deny the petition for rehearing.

Thomas R. Delong, 219482

1999, \$508.00 Tax, \$127.00 Late Filing Penalty

2000, \$1,134.00 Tax, \$283.50 Late Filing Penalty

Action: Deny the petition for rehearing.

W. Rocke and Glenda L. Garcia, 252189

1992, \$357,009.00 Assessment

Action: Deny the petition for rehearing.

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Hocopar, Inc. and Consolidated Subsidiaries, 223807

1997, \$634,412.31 Tax, \$126,882.00 Penalty

Action: Deny the petition for rehearing.

Daniel Hubbard, 240645

2000, \$1,760.00 Tax, \$988.00 Penalties

Action: Deny the petition for rehearing.

Janice B. Madrid, 253563

2000, \$590.00 Tax, \$147.50 Late Filing Penalty, \$214.75 Notice and Demand Penalty

Action: Deny the petition for rehearing.

Scott R. and Judith E. Martin, 253561

1999, \$9,399.00 Assessment

Action: The Board took no action.

Octavius and Araceli Quijada, 250136

1998, \$4,426.00 Claim for Refund

2000, \$3,372.00 Claim for Refund

2001, \$1.00 or more Claim for Refund

Action: Deny the petition for rehearing.

Morris and Ann Schwartz, 268313

2000, \$2,674.00 Assessment

Action: Deny the petition for rehearing.

Matthew D. Strouss and Noelle Rogers, 267338

2000, \$457.00 Assessment

Action: Deny the petition for rehearing.

Yuan Ji Su, 218864

1990, \$145,196.22 Claim for Refund

1993, \$26,253.36 Claim for Refund

Action: Deny the petition for rehearing.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board made the following orders:

Ida M. Brown, 296207

2004, \$332.50

Action: Sustain the action of the Franchise Tax Board.

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Rayline Dean, 301185

2004, \$18.72

Action: Sustain the action of the Franchise Tax Board.

Susan Aven Delaplane, 295468

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Cynthia Margaret Dennis, 298295

2004, \$332.50

Action: Sustain the action of the Franchise Tax Board.

Arnett Ford, 293044

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Socorro Gongora, 296676

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Andre Gonzales, 293053

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Arcadious S. Goodwin, 293082

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Ernest Grimes, 298080

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Earlene Hamilton, 289030

2004, \$305.00

Action: Sustain the action of the Franchise Tax Board.

Jean C. Hursh, 298079

2004, \$1.00 or more

Action: Modify the action of the Franchise Tax Board.

Sally Kelly, 293063

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Ji Y. Kim, 298740

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Robert Koster, 283770

2002, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Iosif Kulchinskiy, 298113

2004, \$265.00

Action: Sustain the action of the Franchise Tax Board.

Deantia Lavender, 294092

2004, \$347.00

Action: Sustain the action of the Franchise Tax Board.

Claudette Louis, 297149

2003, \$347.00

Action: Sustain the action of the Franchise Tax Board.

Kenneth C. Mask, 297129

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Shelia Newby-Iles, 295980

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Dawayne Page, 296213

2004, \$337.00

Action: Sustain the action of the Franchise Tax Board.

Rosetta Patterson (Deceased), 296480

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Dorothy M. Prevost, 296681

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Melvin Rush, 295617

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

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Abbas Sabouhi, 295173

2004, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Jose Sanchez, 295174

2002, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

L. L. Sclia, 300794

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Dzung Tran, 300821

2004, \$1.00 or more

Action: Reverse the action of the Franchise Tax Board.

Thai Van Vu, 288629

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**SALES AND USE TAX MATTERS, REDETERMINATIONS, RELIEF OF PENALTIES
AND DENIALS OF CLAIMS FOR REFUND, CONSENT**

With respect to the Sales and Use Tax Matters, Redeterminations, Relief of Penalties and Denials of Claims for Refund, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in accordance with Government Code section 87105 in *Bank of America NT & SA, 170367*, the Board made the following orders:

Bank of America NT & SA, 170367 (OHB)

1-1-95 to 12-31-98, \$10,764,495.94

Action: Approve the redetermination as recommended by staff. Mr. Chiang not participating in accordance with Government Code section 87105.

Lawrence Berkeley Laboratory, 289751 (CH)

1-1-01 to 12-31-01, \$100,000.00

Action: Approve the redetermination as recommended by staff.

Tosco Corporation, 255917 (OH)

1-1-94 to 12-31-97, \$2,072,135.49

Action: Approve the redetermination as recommended by staff.

Indala Corporation, 301270 (GH)

1-1-99 to 10-31-01, \$53,560.73

Action: Approve the redetermination as recommended by staff.

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Applied Industrial Technologies, Inc., 283200 (OHA)

1-1-00 to 6-30-03, \$80,092.43

Action: Approve the redetermination as recommended by staff.

Leggett-Platt, Inc., 171100 (OHA)

4-1-97 to 3-31-00, \$91,998.60

Action: Approve the redetermination as recommended by staff.

GTE Government Systems Corporation, 285797 (OHB)

7-1-97 to 8-31-99, \$1,032,114.42

Action: Approve the redetermination as recommended by staff.

Bruker Biospin Corporation, 293069 (OHB)

1-1-00 to 12-31-02, \$239,580.05

Action: Approve the redetermination as recommended by staff.

Dana Commercial Credit Corporation, 161323 (OHA)

1-1-96 to 9-30-99, \$1,556,390.67

Action: Approve the redetermination as recommended by staff.

Finova Technology Finance, Inc., 134005 (OH)

4-1-98 to 12-31-98, \$56,921.23

Action: Approve the redetermination as recommended by staff.

Bay Island Company, 198173 (OHB)

7-1-99 to 9-30-00, \$282,825.00

Action: Approve the redetermination as recommended by staff.

Crunch Los Angeles, LLC, 242457 (OHB)

1-1-98 to 12-31-01, \$64,246.05

Action: Approve the redetermination as recommended by staff.

Time Warner LP, 245021 (AC)

1-1-94 to 12-31-96, \$58,007.76

Action: Approve the redetermination as recommended by staff.

Newell Operating Company, 262983 (OHA)

1-1-00 to 12-31-02, \$54,942.78

Action: Approve the redetermination as recommended by staff.

Leather Plus ACC, 293202 (AA)

1-1-00 to 12-31-02, \$77,502.46

Action: Approve the redetermination as recommended by staff.

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Linebaugh, Orejel, and Tran, Inc., 255050 (GH)

4-1-00 to 3-31-00, \$147,280.05

Action: Approve the redetermination as recommended by staff.

Automated Securities Clearance, 212018 (OHB)

1-20-99 to 9-30-02, \$81,802.33

Action: Approve the redetermination as recommended by staff.

AM-PAT Incorporated, 313222 (EA)

10-1-04 to 12-31-04, \$57,173.50

Action: Approve the relief of penalty as recommended by staff.

Lucky Stores, Inc., 308374 (OH)

7-30-04 to 10-28-04, \$141,964.70

Action: Approve the relief of penalty as recommended by staff.

Redwood Oil Company, Inc., 313231 (JH)

10-1-04 to 12-31-04, \$80,038.00

Action: Approve the relief of penalty as recommended by staff.

Albertson's, Inc., 308437 (OH)

7-30-04 to 10-28-04, \$528,915.00

Action: Approve the relief of penalty as recommended by staff.

Agilent Technologies, Inc., 313120 (GH)

1-1-05 to 1-31-05, \$77,673.85

Action: Approve the relief of penalty as recommended by staff.

Lucky Stores, Inc., 308364 (OH)

7-30-04 to 10-28-04, \$773,772.70

Action: Approve the relief of penalty as recommended by staff.

Vanguard Car Rental USA, Inc., 313570 (OHC)

1-1-05 to 2-28-05, \$160,889.88

Action: Approve the relief of penalty as recommended by staff.

3 Com Corporation, 310923 (GH)

4-1-99 to 3-31-02, \$602,376.76

Action: Approve the denial of claim for refund as recommended by staff.

San Diego County Credit Union, 311593 (FH)

4-1-01 to 6-30-04, \$57,032.27

Action: Approve the denial of claim for refund as recommended by staff.

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Accubid Systems, Inc., 309857 (OHA)

10-1-94 to 1-31-02, \$102,419.45

Action: Approve the denial of claim for refund as recommended by staff.

Price Modern LLC, 263605 (OHB)

10-1-03 to 12-31-03, \$69,148.00

Action: Approve the denial of claim for refund as recommended by staff.

Qualex Photofinishing Labs, Inc., 260722 (OHB)

1-1-03 to 12-31-03, \$208,978.70

Action: Approve the denial of claim for refund as recommended by staff.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating in accordance with Government Code section 87105 in *Washington Mutual Bank FA, 311526*; Ms. Mandel not participating in accordance with Government Code section 87105 in *Washington Mutual Bank FA, 311526*; *Volkswagen of America, Inc., 307069*; and, *Daimler Chrysler Corporation, 312329*; the Board made the following orders:

Bert Arnlund, 305266 (EHC)

10-1-00 to 3-31-01, \$51,356.72

Action: Approve the credit and cancellation as recommended by staff.

Zyan Communications, Inc., 313461 (AS)

4-1-00 to 12-1-00, \$80,845.33

Action: Approve the credit and cancellation as recommended by staff.

Raymarc Automotive, Inc., 310293 (EAA)

10-1-04 to 12-31-04, \$231,250.17

Action: Approve the credit and cancellation as recommended by staff.

Curt's Auto Repair, Inc., 312192 (KHO)

4-1-01 to 11-13-03, \$77,733.26

Action: Approve the credit and cancellation as recommended by staff.

Jared William Merrell, 313154 (EA)

1-1-00 to 9-30-03, \$163,262.92

Action: Approve the credit and cancellation as recommended by staff.

Premier Concepts, Inc., 309070 (AS)

4-1-04 to 9-30-04, \$51,173.43

Action: Approve the credit and cancellation as recommended by staff.

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Emma Cardenas, 309029, 309033 (AA)

4-1-03 to 6-30-03, \$98,020.05

7-1-03 to 8-19-03, \$65,752.51

Action: Approve the credit and cancellation as recommended by staff.

Maria Perez, 308814 (EH)

4-1-04 to 9-30-04, \$52,511.50

Action: Approve the credit and cancellation as recommended by staff.

Owens & Minor West, Inc., 261973 (OHB)

1-1-01 to 12-31-01, \$73,267.18

Action: Approve the refund as recommended by staff.

Bowne of Los Angeles, Inc., 133520 (AS)

4-1-98 to 12-31-02, \$1,674,010.16

Action: Approve the refund as recommended by staff.

Bert-Co Industries, Inc., 156669 (AS)

10-1-98 to 12-31-00, \$82,587.56

Action: Approve the refund as recommended by staff.

Hannibal Material Handling, Inc., 295853 (AA)

1-1-01 to 12-31-04, \$1,114,856.14

Action: Approve the refund as recommended by staff.

Steelform Contracting Company, 253551 (EH)

1-1-00 to 12-31-00, \$71,683.52

Action: Approve the refund as recommended by staff.

Fireside Bank, 308903 (CH)

1-1-05 to 3-31-05, \$1,392,084.09

Action: Approve the refund as recommended by staff.

3 Com Corporation, 183232 (GH)

4-1-99 to 3-31-03, \$1,450,155.51

Action: Approve the refund as recommended by staff.

Contra Costa Community College District, 305185 (CH)

7-1-04 to 9-30-04, \$51,942.03

Action: Approve the refund as recommended by staff.

Regents of University of California, 235196 (CH)

4-1-00 to 6-30-03, \$103,340.34

Action: Approve the refund as recommended by staff.

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Kaiser Foundation Health Plan, Inc., 208855 (CH)

1-1-00 to 12-31-02, \$80,966.16

Action: Approve the refund as recommended by staff.

The Permanente Medical Group, Inc., 208875 (CH)

1-1-00 to 12-31-02 \$571,102.58

Action: Approve the refund as recommended by staff.

California Business Sales & Services Center, Inc., 300599 (KHO)

1-1-04 to 3-31-04, \$97,937.69

Action: Approve the refund as recommended by staff.

Gottschalks, Inc., 309241 (KHO)

7-6-03 to 1-1-05, \$738,735.98

Action: Approve the refund as recommended by staff.

Burton's Ready Mix, Inc., 307932 (EH)

1-1-04 to 12-31-04, \$57,053.32

Action: Approve the refund as recommended by staff.

Conagra Grocery Products Company, 313111 (OHA)

1-1-98 to 12-31-00, \$394,039.42

Action: Approve the refund as recommended by staff.

Ricoh Electronics, Inc., 307262 (EA)

4-1-00 to 3-31-04, \$289,561.00

Action: Approve the refund as recommended by staff.

Kreager Machine Tool Corporation, 308257 (BH)

10-1-04 to 12-31-04, \$59,416.66

Action: Approve the refund as recommended by staff.

Cerritos Body Works, Inc., 294801 (EAA)

7-1-01 to 6-30-04, \$611,847.59

Action: Approve the refund as recommended by staff.

C-P Manufacturing, Inc., 306039 (FH)

10-1-04 to 12-31-04, \$142,834.42

Action: Approve the refund as recommended by staff.

Professional Hospital Supply, Inc., 265906 (EH)

4-1-01 to 9-30-04, \$76,690.40

Action: Approve the refund as recommended by staff.

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Qualcomm, Inc., 294782 (FH)

10-1-02 to 12-31-03, \$206,306.71

Action: Approve the refund as recommended by staff.

San Diego County Credit Union, 115624 (FH)

1-1-98 to 6-30-04, \$272,075.58

Action: Approve the refund as recommended by staff.

North Island Financial Credit Union, 306930 (FH)

1-1-02 to 3-31-03, \$140,716.82

Action: Approve the refund as recommended by staff.

Cardinal Health 301, Inc., 301236 (FHB)

7-1-99 to 6-30-02, \$213,887.88

Action: Approve the refund as recommended by staff.

Guzik Technical Enterprises, 287647 (GH)

4-1-04 to 6-30-04, \$198,792.96

Action: Approve the refund as recommended by staff.

The Golden 1 Credit Union, 308491 (KH)

10-1-04 to 12-31-04, \$130,262.24

Action: Approve the refund as recommended by staff.

Washington Mutual Bank FA, 311526 (OH)

1-1-01 to 12-31-03, \$209,909.12

Action: Approve the refund as recommended by staff. Mr. Chiang and Ms. Mandel not participating in accordance with Government Code section 87105.

Exxon Mobil Corporation, 300273 (OHC)

7-1-01 to 12-31-02, \$516,537.77

Action: Approve the refund as recommended by staff.

Safeco Insurance Company of America, 190977 (OH)

1-1-99 to 12-31-02, \$78,367.47

Action: Approve the refund as recommended by staff.

Compuware Corporation, 270932 (OHA)

4-1-01 to 6-30-02, \$86,743.08

Action: Approve the refund as recommended by staff.

Husky Injection Molding Systems, Inc., 219308 (OHB)

4-1-02 to 6-30-03, \$69,678.14

Action: Approve the refund as recommended by staff.

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Sterling Commerce (America), Inc., 306038 (OHC)

10-1-04 to 12-31-04, \$56,170.21

Action: Approve the refund as recommended by staff.

KBA North America, Inc., Sheetfed Division, 306928 (OHB)

10-1-04 to 12-31-04, \$70,388.71

Action: Approve the refund as recommended by staff.

Ford Motor Company, 312580 (OHA)

4-1-05 to 4-30-05, \$373,336.45

Action: Approve the refund as recommended by staff.

Volkswagen of America, Inc., 307069 (OHA)

1-31-00 to 7-24-04, \$108,540.00

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Daimler Chrysler Corporation, 312329 (CHA)

1-19-05 to 6-7-05, \$358,091.43

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Mercedes-Benz USA, LLC, 308195 (KH)

12-29-98 to 8-28-04, \$133,111.00

Action: Approve the refund as recommended by staff.

Arthur J. Ludwick, 253550 (AP)

7-1-03 to 9-30-03, \$104,559.55

Action: Approve the refund as recommended by staff.

Cigna Healthcare of California, Inc., 295472 (AC)

1-1-01 to 12-31-03, \$71,042.27

Action: Approve the refund as recommended by staff.

Ian Schrager Hotel Management, LLC, 311036 (AS)

10-1-04 to 12-31-04, \$59,355.27

Action: Approve the refund as recommended by staff.

Beaulieu Group, LLC, 242276 (OHC)

10-1-00 to 9-30-04, \$360,472.55

Action: Approve the refund as recommended by staff.

GE Packaged Power, Inc., 239630 (OHC)

7-1-02 to 9-30-02, \$601,540.67

Action: Approve the refund as recommended by staff.

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Telcobuy.Com, LLC, 308906 (OHA)

10-1-04 to 12-31-04, \$94,204.69

Action: Approve the refund as recommended by staff.

Data Tree, LLC, 258916 (FH)

1-1-01 to 12-31-03, \$176,220.26

Action: Approve the refund as recommended by staff.

Sprint Paranet, Inc., 205918 (OHC)

1-1-00 to 9-30-02, \$880,385.28

Action: Approve the refund as recommended by staff.

Vertis, Inc., 261579 (OHB)

10-1-01 to 6-30-04, \$349,520.56

Action: Approve the refund as recommended by staff.

Owens & Minor Distribution, Inc., 286039 (OHB)

1-1-02 to 3-31-04, \$116,079.39

Action: Approve the refund as recommended by staff.

Owens & Minor Distribution, Inc., 272245 (OHB)

1-1-02 to 6-30-04, \$265,753.19

Action: Approve the refund as recommended by staff.

Kaiser Foundation Hospitals, 208877 (CH)

1-1-00 to 12-31-02, \$1,162,948.07

Action: Approve the refund as recommended by staff.

Ball Plant Company, 283483 (GH)

7-1-01 to 12-31-04, \$127,740.38

Action: Approve the refund as recommended by staff.

Pacific Digital Image, 243197 (BH)

10-1-00 to 9-30-03, \$129,967.93

Action: Approve the refund as recommended by staff.

Cytec Corporation, 313294 (OHB)

4-1-03 to 5-31-03, \$56,138.67

Action: Approve the refund as recommended by staff.

Travis Credit Union, 305094 (JHF)

10-1-04 to 12-31-04, \$55,684.78

Action: Approve the refund as recommended by staff.

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Travis Credit Union, 309866 (JHF)

1-1-04 to 3-31-04, \$62,232.20

Action: Approve the refund as recommended by staff.

Travis Credit Union, 311040 (JHF)

1-1-05 to 3-31-05, \$71,965.59

Action: Approve the refund as recommended by staff.

M S Integration Corporation, 304336 (AR)

7-1-04 to 9-30-04, \$57,268.47

Action: Approve the refund as recommended by staff.

Pacific Gold, Inc., 308073 (OHB)

10-1-02 to 4-25-04, \$87,621.07

Action: Approve the refund as recommended by staff.

Guidant Sales Corporation, 235684 (GH)

4-1-99 to 3-31-03, \$152,436.84

Action: Approve the refund as recommended by staff.

Lobel Financial Corporation, 305292 (EA)

10-1-04 to 12-31-04, \$120,365.32

Action: Approve the refund as recommended by staff.

Alliance Credit Union, 300174 (GH)

1-1-03 to 12-31-04, \$194,948.63

Action: Approve the refund as recommended by staff.

Top Auto Finance, Inc., 308511 (AC)

7-1-04 to 12-31-04, \$72,714.93

Action: Approve the refund as recommended by staff.

San Ramon Regional Medical Center, 308899 (CH)

1-1-03 to 12-31-04, \$65,367.81

Action: Approve the refund as recommended by staff.

A-L Financial Corporation, 306042 (EA)

10-1-04 to 12-31-04, \$135,782.35

Action: Approve the refund as recommended by staff.

Heritage Community Credit Union, 306533 (KH)

4-1-03 to 6-30-03, \$60,056.45

Action: Approve the refund as recommended by staff.

Thursday, September 1, 2005

SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 in *Nationwide Mutual Insurance Company, 306019*; *Valero Refining Company, California, 286486*; and, *Exxonmobil Oil Corporation, 90667*; the Board made the following orders:

Nationwide Mutual Insurance Company, 306019 (ET)

1-1-94 to 12-31-94, \$123,014.54

Action: Approve the credit and cancellation as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Valero Refining Company, California, 286486 (MT)

8-1-01 to 10-31-01, \$146,712.37

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Exxonmobil Oil Corporation, 90667 (MT)

8-1-97 to 8-31-97, \$95,658.58

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Thrifty Payless, Inc., 311957 (ET)

6-2-05, \$59,001.53

Action: Approve the refund as recommended by staff.

C & S Wholesale Grocers, Inc., 313002 (ET)

6-15-05, \$67,565.44

Action: Approve the refund as recommended by staff.

PROPERTY TAXES MATTER, CONSENT

With respect to the Property Taxes Matters, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

Petition for Penalty Abatement on Unitary Value**G2 Solutions, LLC (8000), 294775**

2004, \$740.00 Penalty

Action: Approve the penalty abatement on 2004 unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Thursday, September 1, 2005

PUBLIC COMMENT

James Harper spoke on the matter of his petition 240351, which is before the Board today.

LEGAL APPEALS MATTERS, ADJUDICATORY

Furnitureland South, Inc., 306937 (OHB)

10-1-04 to 12-31-04, \$87,066.00 Claim for Refund

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish abstaining, the Board ordered that the claim be denied as recommended by the Appeals Division.

Davinder Singh Pabla, Mohinder Singh Pabla, Dial Kaur Pabla, 194819, 205731 (CH)

4-1-99 to 9-30-99, \$3,200.18 Tax, \$640.03 Negligence and Finality Penalties

10-1-99 to 3-31-02, \$14,331.25 Tax, \$1,433.15 Negligence and Finality Penalties

Considered by the Board: Memorandum Opinion

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted the memorandum opinion.

D'Anna Yacht Center, Inc., 188672, 198973 (CH)

10-1-98 to 12-31-01, \$229,428.69 Tax, \$34,015.77 Negligence Penalty

Considered by the Board: April 12, 2005

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Modern Mold International, Inc., 46790, 151920 (FHB)

10-1-95 to 12-31-98, \$5,209,287.00 Claim for Refund

1-1-99 to 6-30-00, \$2,024,963.00 Claim for Refund

Internet Design Technologies, LLC, 104735, 202260 (FHB)

7-1-00 to 9-30-00, \$585,025.00 Claim for Refund

7-1-00 to 6-30-01, \$585,025.00 Claim for Refund

Considered by the Board: May 24, 2005

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Ms. Yee, seconded by Mr. Chiang and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the claim be denied as recommended by the Appeals Division.

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Stanley Gene Lorentzen, 89000966070, 89000966080 (AS)

1-1-93 to 2-14-97, \$10,910.12 Tax, \$00.00 Failure to File Penalty

Considered by the Board: June 8, 2005

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

James Harper, 240351 (CH)

7-1-01 to 9-30-02, \$131,695.70 Tax, \$895.73 Penalty

Considered by the Board: January 25, 2005

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: The Board deferred consideration of this matter to later in the day.

Charles C. Kelley, 220111 (BH)

7-1-99 to 6-30-02, \$1,601.33 Tax

Considered by the Board: June 30, 2005

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Giuseppe Aiello, et al., 240658

1995, \$1.00 or more Claim for Refund

Considered by the Board: April 12, 2005

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board adopted a decision reversing the action of the Franchise Tax Board in the matters of *Fetulio Catene*; *Gio Batta and Angela Fazio*; *Vanda Peverada*; *Albert and Ida Sciamanna*; and, *Ruggero and Elena Micheli*; and sustaining the action as to the remainder.

SALES AND USE TAX MATTERS, REFUNDS, ADJUDICATORY

Citizen Cake Partners, L.P., 313516 (BH)

10-1-01 to 9-30-04, \$166,112.46

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Thursday, September 1, 2005

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

PROPERTY TAX MATTERS

Private Railroad Car Tax Refunds

Quimica Fluor, S.A. de C.V. (6119)
20042 \$69.59

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax refund as recommended by staff.

Honeywell International, Inc. (500)
2004, \$44.81

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax refund as recommended by staff.

PPG Industries, Inc. (640)
2004, \$35.50

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax refund as recommended by staff.

Dana Railcare (6192)
2004, \$1,804.56

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax refund as recommended by staff.

Intercoastal Leasing, Inc. (6195)
2004, \$570.06

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Mr. Leonard voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax refund as recommended by staff.

Thursday, September 1, 2005

Private Railroad Car Tax Penalty & Interest Cancellation Requests

Celtran, Inc. (546)

2003, \$866.78

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Air Liquide America Corporation (665)

2003, \$498.35

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

MHC, Inc. (5761)

2003, \$1,505.94

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Trinity Industries Leasing Company (5787)

2003, \$9,780.43

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Cargill, Inc. (5834)

2003, \$12,426.77

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Proctor & Gamble Manufacturing Company (5891)

2003, \$1,797.63

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

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A. E. Staley Manufacturing Company (5998)

2003, \$19.91

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Trinity Rail Management, Inc. (6059)

2003, \$97.87

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

ECDC Environmental, L.C. (6109)

2003, \$2,387.65

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Cargill Dry Corn Ingredients, Inc. (6116)

2003, \$63.41

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Cargill, Inc., CGD Division (6233)

2003, \$2,295.49

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Centennial Gas Liquids, LLC (6246)

2003, \$441.73

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Thursday, September 1, 2005

Cenex Harvest States Cooperatives (6286)

2003, \$388.40

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Calumet Lubricants (6293)

2003, \$94.31

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Transport Capital Rail Partners, LLC (6339)

2003, \$960.99

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Fina Oil Company (6346)

2003, \$909.48

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

Sherwin Alumina Company (6351)

2003, \$38.86

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Ms. Yee and Mr. Leonard voting yes, Mr. Parrish not participating, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board granted the private railroad car tax penalty cancellation and denied the interest cancellation as recommended by staff.

OFFERS-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *Victor G. Jimenez; John H. Pipinos; Bret and Loris Potts; John Rigoli, Jr.; Mohammad Sohail; Francisco Moreno; Ronald Long; PC Expo Resources, Inc.; Ann Sellers;* and, *Victor Jizwari;* as recommended by staff.

Thursday, September 1, 2005

CHIEF COUNSEL MATTERS

OTHER CHIEF COUNSEL MATTERS

Implementation of Limited Peace Officer Status

Kristine Cazadd, Chief Counsel, Legal Department, made introductory remarks regarding the implementation of limited peace officer status (Exhibit 9.1).

Speaker: Steven K. Alari, Business Taxes Compliance Specialist, Investigations Division, Legal Department, speaking in a private capacity

Action: Mr. Parrish moved to deny the continuation of limited peace officer status. The motion failed for lack of a second.

Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish voting no, the Board authorized the continuation of limited peace officer status as recommended by staff.

The Board directed staff to provide an update on the procedure manual at the November Board meeting.

Ms. Yee requested staff provide specific statistics in monthly reports.

Exhibits to these minutes are incorporated by reference.

Relief of Amnesty Interest Penalties

David H. Levine, Tax Counsel, Appeals Division, Legal Department, made introductory remarks regarding the relief of amnesty interest penalties (Exhibit 9.2).

Action: Upon motion of Mr. Leonard, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board authorized staff to consider and act on requests for relief of amnesty interest penalties and directed staff to provide written guidelines on this subject.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 12:00 p.m. and reconvened immediately in closed session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss pending litigation (Govt. Code § 11126(e)), settlements (R&T Code § 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Govt. Code § 11126(a)).

The Board reconvened at 12:20 p.m. in open session with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

Thursday, September 1, 2005

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARING HELD SEPTEMBER 1, 2005**

George and Judy Georgiou, 254030

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD
SEPTEMBER 1, 2005**

Jeffrey V. Miller, 253699 (OH)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

System Control Technologies, Inc., 240329 (CH)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division, directing staff to first pursue collection from Systems Control Technologies, Inc., and then James Harper.

SALES AND USE TAX APPEALS HEARING

J.C. Penney Company, Inc., 86791 (OH)

7-1-94 to 6-30-97, \$137,429.95 Tax

For Petitioner:

Appearance Waived

For Sales and Use Tax Department:

Bradley Heller, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner is entitled to additional credit against its current audit liability for use tax incurred for other periods but reported and paid during the current audit period.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD
SEPTEMBER 1, 2005**

Jungle Partners I, LP, 243608, 304879 (GHC, BH)

Jungle Partners II, LP, 243607, 304878 (CH)

Jungle Partners III, LP, 243603, 304871 (GH)

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Thursday, September 1, 2005

FINAL ACTION ON SPECIAL TAXES APPEALS HEARING HELD SEPTEMBER 1, 2005

Japan Tobacco International U.S.A., Inc., 253848, 287748 (ET)

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish abstaining, Mr. Leonard voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

LEGAL APPEALS MATTER, ADJUDICATORY

James Harper, 240351 (CH)

7-1-01 to 9-30-02, \$131,695.70 Tax, \$895.73 Penalty

Considered by the Board: January 25, 2005

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division, directing staff to pursue collection from Systems Control Technologies, Inc. first, and then James Harper.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING HELD AUGUST 31, 2005

Beneficial California, Inc., 203445

Final Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board reversed the action of the Franchise Tax Board as to the interest expense and sustained the action of the Franchise Tax Board as to the penalty for underpayment of estimated taxes.

ADMINISTRATIVE SESSION

OTHER ADMINISTRATIVE MATTERS – CONTINUED FROM AUGUST 31, 2005

Budget Change Proposals

Karen Johnson, Deputy Director, Administration Department, made introductory remarks regarding the budget change tax gap proposal for the Public Awareness Campaign for Use Tax.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board approved Alternative 4, Public Awareness Campaign for Use Tax – Tax Gap BCP No. 2b, as recommended by staff.

Ms. Yee directed staff to use more traditional channels relative to some of the trade publications and to collaborate with the Franchise Tax Board on the use tax issue.

Thursday, September 1, 2005

Karen Johnson, Deputy Director, Administration Department, made introductory remarks regarding the budget change tax gap proposal for Enforcement of Consumer Purchases of Tobacco Products from Out-of-State Sellers.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Chiang, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board approved Alternative 1, Enforcement of Consumer Purchases of Tobacco Products from Out-of-State Sellers – Tax Gap BCP No. 2d, as recommended by staff.

Kristine Cazadd, Chief Counsel, Legal Department, made introductory remarks regarding the budget change proposal for the Legal Disclosure Teams.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Chiang, Mr. Parrish, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard voting no, the Board approved Alternative 1, Legal Disclosure Teams – BCP No. 7, as recommended by staff.

Approval of Contract Over \$1 Million

Karen Johnson, Deputy Director, Administration Department, was available to answer questions regarding the interagency agreement with the California Integrated Waste Management Board.

Action: The Board deferred consideration of this matter.

The Board adjourned at 12:45 p.m. in memory of the following:

George Kiriya, former Los Angeles Unified School Board Member, former Principal of the Gardena Community Adult School, who also served in the United States Air Force during the Koran War and was an API Community leader;

Lou Robbins, WWII Veteran, former Principal Structural Engineer of the City of Los Angeles Building and Safety Department for 40 years, Community Activist and husband of the late Mimi Robbins; and,

To the many victims of Hurricane Katrina. Mr. Chiang extended his prayers and wishes to the survivors and the families of the victims.

Ms. Yee announced that Kenneth Topper, Professional Advisor, will be joining the Administration Department as a special assistant to Karen Johnson, thanking him for his contributions and service to her and her predecessor.

The foregoing minutes are adopted by the Board on February 1, 2006.

Note: The following case was removed from the calendar prior to the meeting: *Quality Scientific Plastics, Inc.*, 242464.

Thursday, September 1, 2005